

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE DRY MAX PAMPERS LITIGATION) No. 1:10-cv-00301-TSB
)
) The Honorable Timothy S. Black
)
_____)

**JOINT DECLARATION OF LYNN LINCOLN SARKO AND GRETCHEN FREEMAN
CAPPIO IN SUPPORT OF JOINT MOTION FOR CERTIFICATION OF
SETTLEMENT CLASS, PRELIMINARY APPROVAL OF SETTLEMENT, APPROVAL
OF NOTICE PLAN AND NOTICE ADMINISTRATOR AND APPOINTMENT OF LEAD
CLASS COUNSEL**

Pursuant to 28 U.S.C. § 1746, Lynn Lincoln Sarko and Gretchen Freeman Cappio declare as follows:

1. Lynn Lincoln Sarko is the Managing Partner of Keller Rohrback L.L.P., and head of the firm's Complex Litigation group. Gretchen Freeman Cappio is a partner in the law firm Keller Rohrback L.L.P.
2. The firm of Keller Rohrback L.L.P. was appointed Interim Lead Counsel for Plaintiffs in this consolidated matter on June 16, 2010, and we have been personally involved in this litigation and are responsible for the prosecution of the action.
3. According to the Court's June 16, 2010 Order, as Lead Counsel, Keller Rohrback L.L.P. has the following rights and responsibilities:

- Convening meetings of counsel;
- Initiating, responding to, scheduling, briefing, and arguing of all motions;
- Determining the scope, order, and conduct of all discovery proceedings;
- Assigning such work assignments to other counsel as they may deem appropriate;
- Retaining experts;
- Conducting settlement negotiations with Defendants; and
- All other matters concerning the prosecution or resolution of the consumer protection cases.

4. At mediation, Class Counsel negotiated on behalf of all class members.

5. We submit this declaration in support of the Joint Motion for Certification of Settlement Class, Preliminary Approval of Settlement, Approval of Notice Plan and Notice Administrator and Appointment of Lead Class Counsel.

I. KELLER ROHRBACK L.L.P. SHOULD BE APPOINTED LEAD CLASS COUNSEL

6. Keller Rohrbach L.L.P. is experienced in handling complex class actions similar to this Action and is a national leader in consumer litigation.

7. Keller Rohrbach L.L.P. serves or has served as lead and co-lead counsel in many prominent class action cases, such as the Exxon Valdez Oil Spill, the Microsoft civil antitrust case, the Vitamins price-fixing cases, the MDL Fen/Phen Diet Drug Litigation, as well as numerous others throughout the country. To date, Keller Rohrbach L.L.P. has achieved settlements for its clients in excess of \$ 4 billion.

8. In a recent class action case handled by Keller Rohrbach involving violations of the Washington Consumer Protection Act, Chief Judge Robert S. Lasnik approved the plaintiffs' settlement award and stated: "[T]his is an example of how [a] class action works,

and I was very pleased to see it come to this conclusion.” Kavu, Inc. v. Omnipak Corp., No. 06-109-RSL (W.D. Wash. Jan. 24, 2008). Moreover, Judge John C. Coughenour found that Keller Rohrback has “substantial experience in consumer class action litigation.” *See also* Hansen v. Ticket Track, Inc., 213 F.R.D. 412, 416 (W.D. Wash. 2003) (Pechman, J.) (stating that the “firm is experienced in class action litigation and management”); Mortimore v. FDIC, 197 F.R.D. 432, 437 (W.D. Wash. 2000) (Coughenour, J.) (stating that the firm is “well qualified to represent the class in this case.”); Getty v. Harmon, No. 98-0178, Sept. 20, 1999 (Dwyer, J.) (“Despite substantial obstacles to recovery, Keller Rohrback was willing to undertake the significant risks presented by this case. After a year and half of intensive litigation, including extensive discovery, motion practice and mediation, Class Counsel achieved real and substantial benefits for members of the Class.”).

9. In addition to the Exxon Valdez, Microsoft, Vitamins, and Fen/Phen cases, Lynn Sarko has served as lead or co-lead counsel in other high-profile, complex matters such as the Enron, WorldCom, HealthSouth, Merrill Lynch, Countrywide, and Global Crossing ERISA cases.

10. Gretchen Freeman Cappio joined Keller Rohrback L.L.P. in 1999 and is a partner at the Firm. Ms. Cappio has a diverse practice in the areas of consumer protection, ERISA, mutual funds, and employment litigation. Recently, she successfully represented plaintiffs in In re Mattel, Inc. (lead toys and magnets) and currently serves on the Plaintiffs’ Steering Committee in In re: Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litig., MDL No. 1967 (W.D. Mo.), in which the settlement as to Avent Philips was recently approved.

11. Additional information regarding the firm's complex litigation experience is provided in Keller Rohrback L.L.P.'s resume, attached hereto as Exhibit 1.

II. CLASS COUNSEL THOROUGHLY INVESTIGATED THE CLAIMS AND VIGOROUSLY LITIGATED THE ACTION ON BEHALF OF THE CLASS

12. Class Counsel thoroughly investigated the claims in the Action, committed significant resources representing the proposed Class, and demonstrated the ability to represent the Class and respond to the unique issues involved with representing clients in the Action.

13. Plaintiffs' counsel were contacted by hundreds of individuals who complained of health effects caused by Dry Max Diapers and spent time interviewing these individuals and documenting their factual allegations. Eventually, 59 named plaintiffs filed suit in cases consolidated before this Court.

14. Class Counsel investigated and researched the allegations in the complaints filed against Defendants The Procter & Gamble Company, The Procter & Gamble Paper Products Company and The Procter & Gamble Distributing LLC (collectively, Procter & Gamble or Defendants); briefed an opposition to the Motion of Defendants The Procter & Gamble Company, The Procter & Gamble Paper Products Company, and The Procter & Gamble Distributing LLC to Phase and Sequence Discovery and participated in oral argument on that motion; negotiated disclosure of core documents; wrote mediation briefs that were substantively nearly identical to oppositions to the motions to dismiss and motion to strike class allegations filed by Defendants; retained and consulted repeatedly with medical and scientific experts; and engaged in extensive settlement discussions with Defendants and former Federal District Court Judge Layn Phillips. In addition, Class Counsel from several Plaintiffs' firms participated in person at the mediation, and all

Plaintiffs' law firms whose cases were consolidated at the time of the mediation agreed to the settlement terms.

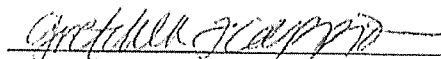
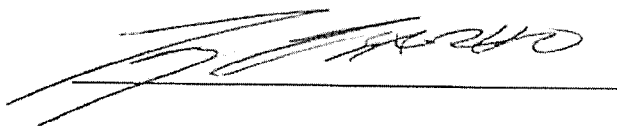
15. The attorney's fees sought in this Settlement are the Mediator's Proposal and are considerably less than Plaintiffs' counsels' lodestar, which was the amount sought by Plaintiffs.

16. In determining their lodestar, Plaintiffs' counsel applied their usual billing rates.

17. We declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED this 27th day of May, 2011.

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